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ALEXANDRIA, VA 22313-1450
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Paper No. 16

In re Application of
William P. Apps
Application No. 09/891,948
Filed: June 25, 2001
Attorney Docket No. RPC 0555 PUS

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on June 28, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the final Office action dated October 9, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that the application is not abandoned because a timely and reply to the Office letter in question was actually filed December 12, 2003. Petitioner has supported this allegation by furnishing a copy of the reply, which is a Notice of Appeal and the fee therefor, and a copy of a filing receipt for the reply which shows that the reply was in fact received in the Office on December 12, 2003, a date within the period set for filing a reply to the Office letter in question. Therefore, it is clear that this application is not abandoned. Office financial records show that the fee for the Notice of Appeal was received and processed.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the Notice of Appeal filed on December 12, 2003.

Further, Office financial records show that on April 15, 2004, a fee for the filing of an appeal brief, together with the fee for a two month extension of time. However, these papers are not in the application file. The Head Supervisory Applications Examiner should have these papers searched for, and if they cannot be found, should contact counsel in order to obtain copies with a copy of counsel's post card receipt for these papers (or other evidence of timely filing). After entry of the appeal brief, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Konstantine J. Diamond
4010 E. 26th Street
Los Angeles, CA 90023